

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 152 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AMRATLAL SHANKERLAL PATEL

Versus

STATE OF GUJARAT

Appearance:

MR RR VAKIL for Petitioner
PUBLIC PROSECUTOR for Respondent No. 1
MS PROMILA SAFAYA for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 08/05/98

ORAL JUDGEMENT

1. Heard Ld.advocate Mr.R.R.Vakil for petitioner.Rule.Ld.APP-Mr.A.J.Desai and Ms.Promila Safaya for respondent No.1 and respondent No.2 respectively waive service of rule.

2. The petitioner has approached this court with a

prayer for issuance of appropriate direction to respondent No.2 to issue fresh passport to the petitioner to enable him to go abroad for a period of six months from the date of his travel. It may be noted that the petitioner has not pressed for relief claiming direction against the Chief Judicial Magistrate, Ahmedabad (Rural), Mirzapur as prayed for vide para 9(B) of the petition.

3. That in earlier petition being Spl.Cri.A No.1059/97 filed by the petitioner this court has passed order, dated 13.10.97 directing the present respondent No.2 to issue passport for a period of three months on the ground that the case of the petitioner is covered by section 2(6)(f) of the Passport Act. That though the petitioner obtained passport as per the order, he could not get visa within a period of three months and thereby he could not perform journey as per his requirement, and as such fresh petition is necessitated. It may be noted that on a suggestion of the court the petitioner who is facing trial in the court of Ld.CJM, Ahmedabad (Rural) under sections 409, 477A and 120 of IPC had applied for exemption from remaining personally present for the trial and petitioner is granted exemption by the said court. In view of the same, as the case of the petitioner is covered by section 2(6)(f) of the Passport Act it would be just and proper if the respondent No.2 is directed to issue passport to the petitioner for a period of 6 months from the date of his travel. As the petitioner is still required to apply and get visa also. It may be that the petitioner must get visa within six months if the passport is issued. In view of the same the respondent No.2 is directed to renew the passport issued to the petitioner with a condition regarding validity of the said passport permitting the petitioner to go abroad for a period of six months from the date of granting of visa by authorities, i.e. Consulate General of USA. The petitioner shall file undertaking before the passport authorities that he shall return and deposit the passport as and when called by the passport authority. Similarly the petitioner shall file undertaking before the lower court that he shall remain present as and when called by the court. The petitioner shall follow prescribed procedure under the Passport Act for renewal of the said passport. In the event of breach of any condition by the petitioner the passport authorities shall be at liberty to cancel and/or revoke the permission granted in the passport under the orders of this court. Rule is made absolute accordingly. No costs. DS permitted.

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